

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish
Policies and Rules to Ensure Reliable, Long-Term
Supplies of Natural Gas to California.

Rulemaking 04-01-025
(Filed January 22, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING APPROVING MOTION
SEEKING LEAVE TO FILE REBUTTAL TESTIMONY AND
SETTING HEARINGS ON GAS QUALITY ISSUES**

Pursuant to a ruling I issued in June 7, 2005, various parties distributed testimony on Gas Quality issues. The utilities served testimony on August 12, 2005, and intervenors served testimony no later than October 5, 2005. In a motion dated November 2, 2005, Delta Energy Center, LLC, Metcalf Energy Center LLC, Los Medanos Energy Center, LLC, Otay Mesa Energy Center, LLC, East Altamont Energy Center, LLC, San Joaquin Energy Center, LLC, Gilroy Energy Center, LLC and Calpine Construction Finance Company, L.P. (collectively, "Calpine"), asked for leave to serve rebuttal testimony. In a ruling dated November 4, 2005, I shortened time for response to this motion. On November 9, 2005, the following parties filed responses:

1. Exxon Mobil Corporation
2. Pacific Gas and Electric Company (PG&E)
3. San Diego Gas and Electric Company (SDG&E) and
Southern California Gas Company (SoCalGas)
4. Sempra Global

Calpine seeks to present rebuttal to testimony offered by Sempra Global related to the performance of Calpine's 830 megawatt (MW) Baytown generating facility under various gas quality conditions. Sempra Global seeks to avoid taking the time to receive rebuttal testimony and, in furtherance of that, goal, has removed from its testimony any references to the Baytown facility.

PG&E supports allowing parties the opportunity to submit limited rebuttal testimony. PG&E states that rebuttal testimony will help to complete the record on what it describes as important and far-reaching gas quality issues. However, PG&E requests that the Commission limit any rebuttal testimony (a) to issues that require clarification and (b) to additional information which will assist the Commission in addressing the gas quality issues before it.

PG&E states that it would offer limited comments and information clarifying certain issues that have arisen from the testimony submitted in this proceeding, and that it has begun the process of identifying those issues it believes would be important to address, such as, for example, a response to the testimony of Calpine witness Craig Chancellor regarding the proper Wobbe range of natural gas supplied to natural gas-fired electric generation facilities. PG&E recommends that the Commission require parties to submit rebuttal testimony by November 30, 2005, shortly after the Thanksgiving holiday, arguing that this time is necessary to consider and assess the testimony that the parties have submitted to date, and to prepare rebuttal testimony.

SDG&E and SoCalGas argue that the granting of Calpine's motion would be in the interest of justice and would promote administrative efficiency, by providing a more complete record for the Commission's determination of the

issues stated in the Assigned Commissioner Ruling. SDG&E and SoCalGas propose to serve rebuttal testimony to respond to the testimony of Calpine witnesses Craig Chancellor and Peter So, and Southern California Edison Company witness Luis Pando, concerning the operation of natural gas-fired electric generation facilities using gas within the range of the specifications proposed by SDG&E and SoCalGas and by PG&E. Additionally, SDG&E and SoCalGas propose to respond to the testimony of Western States Petroleum Association, and California Independent Producers Association, concerning the CO₂ and O₂ specifications proposed by SDG&E and SoCalGas and concerning Mr. Nicas' assertion regarding gas quality specifications applicable to deliveries from Exxon Mobil's Santa Ynez facility.

Exxon Mobil does not support or oppose Calpine's motion, but asks for the opportunity to present surrebuttal, if issues are raised for the first time in rebuttal testimony. Exxon Mobil specifically points to Mr. Nicas' assertion that SDG&E and SoCalGas have not stated how they would accommodate gas deliveries under existing contracts. If SDG&E and SoCalGas offer in their rebuttal testimony a new proposal for accommodating such deliveries, Exxon Mobil would want another opportunity to respond.

Sempra Global's modification of its testimony may have resolved the concern of Calpine that prompted the initial motion. Since Calpine has not had an opportunity for a responsive pleading, I cannot be certain of this. However, other parties seek an opportunity for limited rebuttal, and limitations on scheduling hearings through the holiday period provide the time needed to submit it. I will allow for rebuttal, and agree with PG&E that this additional testimony must be strictly limited.

Rebuttal evidence must be limited to responding to factual assertions in the direct testimony of another party. If the rebutting party simply disagrees with an argument offered through direct testimony, it may address that disagreement through cross-examination and/or briefs. Rebuttal does not provide an opportunity to offer new proposals. I do not intend to offer an opportunity for surrebuttal, as proposed by Exxon Mobil. If a party can later demonstrate to me a compelling need for additional limited testimony, I will consider allowing it to occur on the stand.

I will require parties offering rebuttal to serve it no later than November 30, 2005. We will hold hearings on gas quality issues in the Commission's Hearing Room State Office Building at 505 Van Ness Avenue, San Francisco, starting Monday December 12, 2005 at 10:00 a.m. and continuing throughout the week, as needed. There will be a telephonic prehearing conference on December 6, 2005 at 10:00 a.m. to discuss estimates for cross-examination and the order of witnesses. I ask PG&E to please establish a conference line for this discussion and notify parties of the call-in number well in advance of December 6th. Any party with witness scheduling constraints shall let me know by e-mail or otherwise in writing no later than Wednesday, November 30, 2005.

IT IS RULED that:

1. Parties may serve rebuttal testimony, as described in this ruling, no later than November 30, 2005.
2. By November 30, 2005, parties shall inform me, by e-mail or otherwise in writing, of any constraints in the scheduling of witnesses.
3. There will be a telephonic prehearing conference on December 6, 2005, to discuss cross-examination estimates and the scheduling of witnesses.

4. The Commission will hold hearings on gas quality issues in the Commission's Hearing Room State Office Building, 505 Van Ness Avenue, San Francisco, starting Monday December 12, 2005 at 10:00 a.m. and continuing throughout the week, as needed.

Dated November 17, 2005, at San Francisco, California.

/s/ STEVEN WEISSMAN

Steven Weissman
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day, served a true copy of the original attached Administrative Law Judge's Ruling Approving Motion Seeking Leave to File Rebuttal Testimony and Setting Hearings on Gas Quality Issues on all parties of record in this proceeding or their attorneys of record.

Dated November 17, 2005, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074,

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TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.